

**CERTAIN TRACK II DEFENDANTS'
REQUEST FOR EXPEDITED HEARING**

On November 28, 2005, plaintiffs filed a motion seeking clarification of this aspect of the Court's case management order. While

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defendants dispute various factual allegations set forth in that pleading – many of which were specifically addressed in response to plaintiffs’ motion to modify the Track II schedule – defendants agree with plaintiffs that confusion exists as to the Court’s intent regarding discovery deadlines for the Track II case.

On the one hand, plaintiffs interpret the Court’s order to effectively grant an open-ended extension of fact discovery as to the Track II physician-administered drugs, pending entry of a final order by the Court regarding class certification, including appeal. This interpretation would, defendants submit, have the unintended effect of extending discovery without any effective discovery cutoff date. It would also have the unintended consequence of requiring the Track II defendants’ expert reports to be submitted not only prior to the reports of the Track I defendants, but also prior to close of fact discovery.

On the other hand, defendants understand the Court’s order to deny the parties’ cross-motions for modification of the Track II discovery schedule – including plaintiffs’ request that discovery be extended for a period of 90 days – and instead ordering a close of Track II fact discovery by the previously established December 3, 2005 cutoff date, absent individual agreements among the parties (as in the case, for example, of Baxter International Inc.).

Because of the fast-approaching December 3, 2005 discovery cutoff, and the impact that the parties’ competing interpretations of the

Court's order will have on the orderly completion of discovery, defendants join in plaintiffs' motion for clarification and request the Court to convene a brief telephonic hearing in order to resolve these issues.

Respectfully submitted,

/s/ Frank A. Libby, Jr.

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